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The Honorable Benjamin H. Settle

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA**

NATHAN HOLBURN,

Plaintiff,

vs.

KITSAP PUBLIC HEALTH
DISTRICT,

Defendant.

)
) **No.: C18-5018-BHS**
)
) **MOTION TO ORDER**
) **AUTHORIZING TAKING**
) **OF DEPOSITIONS BEYOND**
) **THE DISCOVERY CUTOFF**
) **TO ACCOMMODATE THE**
) **WITNESSES' SCHEDULING**
) **CONFLICTS**
)

NOTE ON MOTION CALENDAR: August 2, 2019.

Defendant Kitsap Public Health District ("KPHD"), by and through
Michelle K. Fossum of Sayre Sayre & Fossum, P.S., pursuant to Fed. R. Civ.
P. 26, submits the following Motion to Authorize Plaintiff to schedule the
depositions of three employees of Kitsap Public Health District after the

MOTION TO AUTHORIZE DEPOSITIONS
BEYOND DISCOVERY CUTOFF TO
ACCOMMODATE WITNESSES (C18-5018BHS)P.1

1 discovery cutoff date to accommodate the scheduling conflicts of the
2 witnesses. This motion is supported by the declaration of Michelle K.
3 Fossum submitted herewith.
4

5 On July 9, 2019, Plaintiff issued Notices of Deposition for seven
6 employees of Kitsap Public Health District for the week of August 5-9. The
7 discovery cut-off is August 12, 2019. Unfortunately, two of the employees,
8 Dawn Morris and John Kiess, have personal conflicts on the date their
9 deposition was to take place. Specifically, Dawn Morris is scheduled for
10 Monday August 5, but is moving her daughter to college August 5-8. Jon
11 Kiess is scheduled for Wednesday, August 7, but has a prescheduled family
12 vacation which includes the dates of August 5-8.
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15 Kitsap Public Health District suggested that the order of the witnesses
16 be adjusted within the week selected by Plaintiff, but Plaintiff refused on the
17 basis that the order of the witnesses was important. The parties held a CR 37
18 conference regarding the scheduling on July 17, and it was agreed that the
19 depositions would be scheduled for Thursday and Friday, August 8 and 9, and
20 then August 12, 13 and 15 of the following week. All witnesses are available
21 on the dates indicated and this schedule maintains Plaintiff's requested
22 deposition order.
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MOTION TO AUTHORIZE DEPOSITIONS
BEYOND DISCOVERY CUTOFF TO
ACCOMMODATE WITNESSES (C18-5018BHS)P.2

1 Subsequent to the CR 37 conference, Plaintiff's counsel expressed
2 concern that LCR 16(B)(5) requires court approval of any deviation from the
3 scheduling order and is unwilling to amend the notices of deposition without
4 court approval. Counsel then indicated that if Defendants would agree to his
5 anticipated motion to continue the trial date, these scheduling issues could be
6 avoided. Defendant does not agree to a continuance of the trial date.
7

8 Defendant offered to draft a Stipulated Motion and Order requesting
9 authorization to take the depositions outside of the discovery deadline, but
10 Plaintiff refused, stating that a motion could be filed if the Court denies the
11 motion to continue. Given that the witness for the first deposition is
12 unavailable, and that deposition is only ten (10) working days away, a
13 resolution to this issue is requested prior to the Court's decision on the
14 continuance.
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18 Based on the above, Defendant requests that the Court strike the
19 existing Notices of Deposition and authorize the Plaintiff to take the
20 requested depositions as follows:
21

- 22 1. Dawn Morris: August 8, 2019 at 9:00 a.m.
- 23 2. Tim Quayle: August 9, 2019 at 1:00 p.m.
- 24 3. John Kiess: August 10, 2019 at 9:00 a.m.
- 25

MOTION TO AUTHORIZE DEPOSITIONS
BEYOND DISCOVERY CUTOFF TO
ACCOMMODATE WITNESSES (C18-5018BHS)P.3

- 1 4. Eric Evans: August 12, 2019 at 9:00 a.m.
2 5. Jim Zimny: August 13, 2019 at 9:00 a.m.
3 6. Karen Holt: August 13, 2019 at 11:00 a.m.
4 7. Keith Grellner: August 15, 2019 at 9:00 a.m.
5

6 Should the Court ultimately grant a continuance, the parties can work
7 together toward alternate deposition dates within the discovery period.
8

9 Respectfully submitted this 22nd day of July, 2019.

10 **SAYRE, SAYRE & FOSSUM**

11
12 By: Michelle K. Fossum
13 Michelle K. Fossum
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MOTION TO AUTHORIZE DEPOSITIONS
BEYOND DISCOVERY CUTOFF TO
ACCOMMODATE WITNESSES (C18-5018BHS)P.4

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DECLARATION OF SERVICE

The undersigned declares under penalty of perjury under the laws of the State of Washington that on this day, I electronically filed a true and accurate copy of the document to which this declaration is affixed with the Clerk of the Court using the CM/ECF System, which will send notification of such filing to the following:

Ronald L. Jackson
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Dated this 22nd day of July, 2019, at Spokane, Washington.

/s/ Gina Christensen
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MOTION TO AUTHORIZE DEPOSITIONS
BEYOND DISCOVERY CUTOFF TO
ACCOMMODATE WITNESSES (C18-5018BHS)P.5